

Citizenship Law Changes as of April 2009

The Government of Canada made a decision to change a Canadian citizenship law as of April, 2009 that significantly impacted the ability of the Low German Mennonite population. What changed?

1. No one who turned 28 after the change came into effect on April 17, 2009, has to go through the “retention” process. This holds true regardless of whether they are living in Canada or outside of Canada.
2. What is the retention process? The law required some people who were born outside of Canada after February 14, 1977, to spend at least one year in Canada and to apply for retention of their citizenship before they turn 28. No one who turned 28 after April 17, 2009 has to do that any longer.
3. What happened to people who turned 28 after April 17, 2009? They became Canadian citizens for their whole lives. If they already have certificates, those certificates remain valid forever. If they did not yet have certificates, they are able to apply for certificates at any time in their lives. Those who received certificates with an expiry date of after April 17, 2009, are able to obtain a new certificate at any time.
4. What about their children? Children born to such people before April 17, 2009, are citizens for their whole lives and they too are able to apply for certificates at any time.
5. What about children born after April 17, 2009? Most children born outside of Canada, if both of their parents were also born outside of Canada, will not have a claim to Canadian citizenship, not even if their parents went through the retention process before April 17, 2009. (For the exception to this rule see point 7 below).
6. Can such children get Canadian status in a different way? Yes. Their parents can take them to Canada before they turn 22 and sponsor them to become “Permanent Residents.” (This has the same meaning as “landed immigrant”). As soon as the children have that, then they can apply for citizenship. Once they have citizenship, it will remain valid forever regardless of where they live.
7. If a person born outside of Canada moves to Canada and becomes a Permanent Resident in Canada and thereafter receives citizenship, then moves away from Canada again and has a child outside of Canada, such a child will be a citizen forever and will be able to apply for a certificate at any time.

The government’s change in the law opened a few doors for some people born before 1977.

I. People who were born outside of Canada before 1947. The 1947 Act stated that if such people were born of a Canadian father, in wedlock, and were still under 21 on January 1, 1947, then they became Canadian citizens automatically. But they did not automatically remain citizens forever. They ceased to be citizens on January 1, 1954 or on their 24th birthday, whichever date

came later, if they did not take either of two actions: (i) live in Canada on that date, or (ii) apply for a “Certificate of Retention of Canadian Citizenship” before that date.

Those who ceased to be citizens because they failed to take either of those two actions, have been made citizens again by this new law. They will be able to apply for certificates of citizenship at any time in their lives. **But the new law will not enable such people to pass on any citizenship rights to their children.**

To explain this further please consider a story. Let’s call it Story A. In this story, Abram was born in Canada in 1905. He moved to Mexico in the 1920s, entered into a legal marriage, and then had a son, Jacob, in Mexico in 1931. According to the 1947 Act, Jacob became a citizen on January 1, 1947. But if Jacob did not take either of the two actions noted above then Jacob ceased to be citizen in 1955 when he turned 24. As of April 2009, Jacob is again a citizen and he can apply for a certificate at any time.

If Jacob had a child, Elizabeth, this law of 2009 will not give Elizabeth any citizenship rights, regardless of whether she was born before or after Jacob turned 24, and regardless of whether she was born in wedlock or out-of-wedlock. Also, if Abram had not entered into a legal marriage before Jacob was born then Jacob would not have become a citizen in 1947. In that situation the new law would not do anything for Jacob now.

II. People who were born outside of Canada between December 31, 1946 and February 15, 1977.

The 2009 law states that if, on the day they were born, at least one of their parents was a Canadian citizen by virtue of having been born in Canada or having been “naturalized” or “granted” citizenship, then one of two things could happen: (i) if such persons became citizens and later ceased to be citizens, then, under the new law, they are citizens again, or (ii) if they never became citizens then, under the new law, they are now citizens for the first time. It will not matter whether they were born in-wedlock or out-of-wedlock or whether the Canadian citizen parent was their mother or their father.

Unfortunately, for quite a few Mennonites born in this time period, their parents will not have become citizens in the way described in the preceding paragraph, that is, by being born in Canada or being “naturalized” or “granted” citizenship. To explain the effect of this let us change the story and call it Story B. In this story Elizabeth was born in 1952 before her father, Jacob, ceased to be a Canadian. Also in this story, Elizabeth’s parents were legally married before she was born. Clearly, then, Elizabeth had citizenship rights under the 1947 law. But two things could have happened that resulted in a situation where she is not a citizen now: (i) she might not have been registered, meaning that she did not obtain a “Registration of Birth Abroad Certificate” (RBA); or (ii) she might have obtained an RBA but then not “retained” her citizenship, by not applying for Retention before turning 24 or by not living in Canada when she turned 24. If any of these things happened then she would have ceased to have any citizenship rights in 1976 when she turned 24. The 2009 law will not help Elizabeth now. The reason is that her father, Jacob, originally became a citizen on a “derivative” basis, not in the way described in the preceding paragraph.

Nevertheless, some Mennonites born abroad after 1946 are helped by the 2009 law. To explain this let's change the story again and call it Story C. In this story there is no Jacob. Instead, Elizabeth is a child of Abram who, as noted above, was born in Canada. In this situation, there are two possibilities. One is that if Elizabeth obtained an RBA but did not go qualify to "retain" her citizenship, meaning that she did not apply for Retention or live in Canada when she turned 24. In this situation she ceased to be a citizen in 1976. But under the 2009 law she could become a citizen again because she was born of a Canadian born parent. The other possibility is that if she never obtained an RBA, meaning that she never was a citizen, then, under the 2009 law she could become a citizen for the first time. These things would happen regardless of whether her parents were legally married before she was born and regardless of whether it was her father or her mother who was born in Canada. Elizabeth is able to apply for a certificate at any time in her life but she will not be able to pass on any citizenship rights to her children.

One way to understand these things is to remember a basic principle of the 2009 law. It is that first generation born-abroad people are life-long citizens but generally, their born-abroad children are not. The exception is where a parent, though born abroad, was "granted" citizenship. If such a parent has a child outside of Canada, that child will be a life-long citizen.